

Summary Dissolution

Summary dissolution in California reduces divorce to its simplest procedure, a no-fault joint petition for dissolution of the marriage. No court appearances are necessary and fewer forms are required. While this approach can be easier, it cannot always be used. To qualify to use this process outlined in California's Family Code §§2400-2406, certain requirements must be met.

Requirements

- There are no children (natural or adopted) from the relationship, and the Wife is not pregnant.
- Marriage does not exceed five years at date of filing.
- Both parties have no interest in real property anywhere in the world.
- Debts owed by either or both parties (excluding automobile debts) after the date of marriage do not exceed \$6000.
- Community property asset value (excluding automobiles, but including deferred compensation and retirement plan/TSP) is less than \$38,000. Neither party can have separate property net valued of more than \$38,000.
- Except in situations where there are no community assets or liabilities, attach an agreement (known as a "property settlement agreement") as to how community assets and liabilities will be divided. All documents to carry out agreement must be completed by both parties to be effective (e.g., name removal from bank account and vehicle title).
- Both parties must waive rights to spousal support.
- Even if you and your spouse are domiciled ("legal residents") in another state (or states), you can get a summary dissolution as long as one spouse has lived in California for six months or more and in the county of filing for at least three months.
- Both spouses must read the Summary Dissolution Booklet. The booklet will help you throughout your case, and it contains the worksheets and forms you'll need as well as instructions to fill them out. Also, in order to proceed with the dissolution, you have to swear under penalty of perjury that you have read and understood the booklet. It is available at the legal assistance office, the county clerk's office or online at: <http://www.courtinfo.ca.gov/forms/documents/fl810.pdf>.

Note: The dollar figures referenced above are indexed for inflation and revised every odd-numbered year. Current figures will be on the Joint Petition, Judicial Council Form FL-800.

If all the prerequisites above are met, you and your spouse may file a summary dissolution. Summary dissolution has both advantages and disadvantages over Regular Dissolution. One advantage is that summary dissolution is a simpler process that skips the service of summons and petition to the other spouse. It can be handled through the mail, keeping forms to a minimum and does not require a court appearance. Once residency is established for purposes of filing for the dissolution in California, both parties can leave California, and the dissolution will continue to go forward. (Make sure, however, that you and your spouse know your new addresses to receive the final judgment of dissolution.)

Summary dissolution provides for termination of marital status but only with orders for division of assets, obligations, and restoration of former name. A regular dissolution offers a wide range of orders including spousal support. Summary dissolution does not allow parties the right to appeal because technically there is no trial or court hearing. Only in cases of coercion or serious mistake (i.e., incorrect financial information) will courts set aside the terms of summary dissolution. Parties must proceed carefully and not rush into summary dissolution because it is costly to correct mistakes made in this process.

Another disadvantage of summary dissolution is that one partner can terminate the process at any time before the Request for Final Judgment is filed. This can halt the dissolution process if one party does not want to proceed, or if the parties reconcile. To begin the regular dissolution process another filing fee will be charged.

The county clerk's office often has Family Law Seminars where further questions can be asked. In Monterey, the office can be reached by dialing (831) 647-7730. The address for the Monterey County Courthouse is 1200 Aguajito Road, Monterey, CA 93940.

The Legal Assistance Branch is also available for appointments regarding dissolution, summary or otherwise. Please call us at (831) 242-5084 for an appointment.

Steps to Process a Summary Dissolution

1. Fill out the three separate worksheets (Value and Division of Community Property; Value of Separate Property; Community Obligations) which will help you determine the value of community and separate property and the division of the property. These forms will not be filed with court, but you will each need to maintain a copy of these forms for your records.
2. Each party serves the other an Income and Expense Declaration Form (Form FL-150). Give one copy to your spouse, and keep a copy for your records (This form is not filed with court, but it must be served on each party, or the property settlement agreement can be challenged later in court.)
3. Draft the Property Settlement Agreement that divides personal property, assets and debts and which also waives spousal support. You must both sign and date this agreement. Make two (2) additional copies.
4. Fill out the Joint Petition for Summary Dissolution Form (FL-800) under penalty of perjury. Make two (2) additional copies.

5. Make three (3) sets of forms to provide to the court, consisting of one Joint Petition each and one Property Settlement each. Take to the county courthouse and pay the filing fee (\$355) to file with the county clerk. The clerk will stamp each set of documents and maintain one set for the court and return the other two. One copy is for the Wife, one for the Husband.
6. There is a six-month waiting period.
7. Be aware that at any time during the six-month waiting period, either spouse may file a Notice of Revocation of Petition for Summary Dissolution (Form FL-830) to stop the summary dissolution process.
8. After the six months waiting period is up, either spouse may fill out the Request for Judgment, Judgment of Dissolution of Marriage and Notice of Entry of Judgment (Form FL-820), but it must be filed with the county clerk in order to get the final order of divorce. An original, two copies and two pre-addressed, stamped envelopes (addressed to each spouse) must be provided to the clerk. Upon receipt, the clerk will record the document in the court's records and mail the Notice of Entry of Judgment to each spouse. **You are not divorced until the Notice of Entry of Judgment is completed.**